IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO.5101 of 2005

Between:

Devalla Ankaiah, S/o. Venkatarayudu, 29 years,
R/o. D.No. 11-3-4-11, Vidhyadharapuram, Vijayawada, Krishna District.

...PETITIONER

AND

1. The Secretary, Regional Transport Authority, Vijayawada, Krishna District.
2. Assistant Motor Vehicle Inspector, Tetagunta Check Post, Tetagunta, East Godavari District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order or direction more particularly one in the nature of writ of Certiorari calling for the records pertaining to the Demand Notice dated 02.03.2005 in R.No.5511/B1/2005 issued by the 1st respondent herein and quash the same as illegal, arbitrary and against the principles of natural justice and consequently set aside the Demand notice dated 02.3.2005 in R.C.No.5511/B1/2005 issued by the 1st respondent.

Counsel for the Petitioner: MR.B.CHANDRA SHEKHAR

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following:

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO.5101 of 2005

ORDER: (Per the Hon'ble Mr.Justice T.Ch.Surya Rao)

The vehicle of the petitioner seems to have been intercepted under a check report earlier. The petitioner approached this Court for release of the vehicle when it was detained and this Court directed the release of the vehicle on the condition of petitioner depositing a sum of Rs.5,000/- and furnishing an undertaking. Pursuant to the orders of this Court, the vehicle appears to have been released in favour of the petitioner. Now, it is the case of the petitioner that simultaneously the impugned notice dated 02.03.2005 was issued to the petitioner raising a demand for tax with penalty, threatening to take further action in the event of non-compliance.

It is the grievance of the petitioner that such a notice directing the petitioner to pay the tax is bad having not been preceded by the requisite show cause notice nor any

opportunity was given to the petitioner.

The learned Government Pleader for Transport fairly submitted that the impugned notice dated 02.03.2005 can be treated as a show cause notice and an opportunity will be given to the petitioner to file his objections pursuant there to, within a period of three weeks from the date here of and after hearing the petitioner by providing an opportunity of personal hearing, the objections can be dealt with by passing appropriate orders.

We are convinced after having heard both the counsel and we are inclined to dispose of the Writ Petition with the direction as under:

The impugned notice dated 02.03.2005 shall be treated as show cause notice and the petitioner shall be given three weeks time from the date hereof to appear before the authority and file his objections in which event, after personal hearing and considering the objections filed by the petitioner the authority may pass appropriate orders in accordance with law. No order as to costs.

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(M.H.S.ANSARI,J)

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(T.CH.SURYA RAO ,J)

17th March 2005

Note: Issue CC on priority basis.

B/O

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Regional Transport Authority, Vijayawada, Krishna District.

2. Assistant Motor Vehicle Inspector, Tetagunta Check Post, Tetagunta, East Godavari District.

3. Two CCs to G.P. for Transport, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.